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Attorneys for Defendants
American Overseas Marine Corporation
and General Dynamics Corporation

IN THE UNITED STATES DISTRICT COURT
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

KENNETH COUTURE,
Plaintiff,

vs.

AMERICAN OVERSEAS MARINE
CORPORATION and GENERAL
DYNAMIC CORPORATION,
Defendants.

CIVIL ACTION NO. CV05-0024

DEFENDANTS' EX PARTE MOTION
UNDER LOCAL RULE 7.1.h.3(b) TO
SHORTEN TIME TO HEAR **AMENDED**
MOTION FOR SANCTIONS;
CERTIFICATION PURSUANT TO
LOCAL RULE 7.1.H.3(B); MOTION FOR
SANCTIONS; MEMORANDUM OF
POINTS AND AUTHORITIES; EXHIBITS
A & B; DECLARATION OF SERVICE

DATE: APRIL 5, 2007
TIME: 10:00 A.M.

PRELIMINARY STATEMENT

On March 16, 2007 Defendants filed the instant motion in essentially the same form as that which follows below. Subsequent to filing the motion, discussions between Defense and Plaintiff's counsel took place which called into question certain representations made in the initial motion and the declaration supporting it. As a result of such discussions, the motion and declaration filed on March 16, 2007 are hereby withdrawn and replaced with the instant amended motion.

1 The difference between this amended motion and the amended declaration filed in
 2 support, and that which were filed on March 16, 2007, concerns the chronology of events which
 3 occurred at the deposition of Carl Inglehart on May 25, 2006; in particular, whether or not
 4 Defense counsel first saw Inglehart's altered medical records *prior to the commencement of*
 5 *Inglehart's deposition, or during a break in the deposition.* Contrary to defense counsel's
 6 recollection and assertion as stated in the initial motion, Plaintiff's counsel asserts it was during a
 7 break in the deposition. For purposes of this motion, defense counsel will not challenge the
 8 assertion that it was during the deposition rather than prior to it. There is not, however, any
 9 dispute between counsel that Plaintiff's counsel was in possession of the altered medical records
 10 as of April 25, 2006, and did not disclose them to defense counsel until May 25, 2006 when
 11 Inglehart's deposition was taken.
 12

13
 14 **EX PARTE MOTION UNDER LOCAL RULE 7.1.H.3(B) TO SHORTEN TIME TO**
 15 **HEAR AMENDED MOTION FOR SANCTIONS**

16 Defendants American Overseas Marine Corporation and General Dynamic Corporation
 17 move this Court for an Order shortening time to hear its Amended Motion for Sanctions on April
 18 5, 2005. This Ex Parte Motion is based the attached Certification Pursuant to Local Rule
 19 7.1.H.3(b), and on the current schedule of the Court, which has set Plaintiff's Motion for
 20 Sanctions to be heard on April 5, 2005.

21 **CERTIFICATION PURSUANT TO LOCAL RULE 7.1.H.3(B).**

22 American Overseas Marine Corporation and General Dynamic Corporation have
 23 complied with the requirements for moving Ex Parte for an Order granting Motion for Sanctions.

24 Counsels' respective, phone, fax, and office locations appear in this pleading.

25
 26 Counsel for Defendant, David Ledger, on March 15, 2007 during the hearing of
 27 defendants' motion for summary judgment notified opposing counsel of this motion and the
 28 accompanying ex parte motion to shorten the time to hear this motion to April 5, 2007, the same


1 date on which Plaintiff's motion for sanctions is scheduled to be heard.

2 The basis for the ex parte application is that the motion should be heard on the same day
3 as Plaintiff's motion for sanction, April 5, 2007.

4 Based on the foregoing, AMSEA and GENDYN hereby respectfully request the Court to
5 GRANT this Ex Parte Application to shorten time and to set this Motion for Sanctions to be
6 heard on April 5, 2007.

8 DATED: March 19, 2007.

9 CARLSMITH BALL LLP


10 DAVID LEDGER
11 Attorneys for Defendant
American Overseas Marine Corporation

12 **AMENDED MOTION FOR SANCTIONS**

13 Defendants American Overseas Marine Corporation (AMSEA) and General Dynamics
14 Corporation (GENDYN) pursuant to Local Rule 7.1.h.3(b) and LR 12.1, move for an Order
15 granting the instant Amended Motion for Sanctions.
16

17 **MEMORANDUM OF POINTS AND AUTHORITIES**

18 **I. Introduction**

19 This motion seeks to preclude Plaintiff from utilizing in any way medical records which
20 Medical Services Officer Carl Inglehart improperly altered subsequent to treating the Plaintiff's
21 finger injury in March 2004.¹ The *UN*altered records are attached as Exh. A, the altered records
22 as Exh. B. Defendants produced the unaltered records at the inception of the case as part of Rule
23

24
25 ¹ Inglehart was not employed by Defendants when he treated the Plaintiff or when he altered the medical records.
26 Defendants acknowledge that for purposes of meeting their duty to provide proper medical care Inglehart was their
27 chosen provider and that responsibility for any shortcomings in the care provided ultimately rests with Defendants.
28 But that is where it ends. As a civilian employed by the Military Sealift Command assigned to provide medical care
for U.S. Navy personnel on board the vessel, and in having complete control over and responsibility for his own
medical records, Defendants are not saddled with Inglehart's actions in altering medical records because his
motivation for doing so were purely his own and in now ay attributable to AMSEA.

1 26 disclosures. The basis of this motion is that Plaintiff's counsel improperly and intentionally
2 concealed the existence of the altered medical records when they should have been disclosed at
3 the time Plaintiff came into possession of them.

4 Defendants have informed the Court that they agree that altering the medical records was
5 improper and perhaps even motivated by an ill-advised attempt by Inglehart to cover up a
6 mistaken diagnosis and incomplete treatment of the injury. In particular, the medical records
7 prepared contemporaneous with the treatment (Exh. A) contain no reference to Inglehart
8 advising the Plaintiff to get an x-ray of the injured finger. Defendants and their medical experts
9 recognize that the injury warranted an x-ray to determine whether or not the finger was fractured,
10 and that failure to provide an x-ray would not meet the standard of care for medical treatment in
11 this instance. It is a known fact that Defendants played no role whatsoever in Inglehart's
12 decision to alter the records or in the alteration itself.

13 **II. Factual Background**

14 As noted above, the unaltered medical records were produced from defendants' files in
15 initial disclosures. Plaintiff's medical records were not part of the vessel's medical records
16 normally maintained by the vessel's chief mate² and at AMSEA headquarters. This is because
17 Inglehart was a civilian employed by the Military Sealift Command assigned to the U.S. Navy
18 personnel on board the vessel as their dedicated medical services officer. Since Plaintiff's finger
19 injury required more specialized care than the chief mate had training to provide, he sought
20 assistance and medical care from Inglehart, who was much more highly trained and experienced
21 in treating injuries such as this one. In hindsight, that was a "mistake" which has haunted
22
23
24
25
26

27 ² The chief mate on AMSEA vessels is the designated medical services provider for AMSEA crewmen. However,
28 his training is limited to basically "first-aid" and in certain approved situations administering drugs. The chief mate
would be the custodian of records for medical care so provided, which in turn would be AMSEA records and files.

1 AMSEA.³

2 Turning to the matter of the altered medical records, Plaintiff's counsel kept the existence
3 of the records secret with the specific intent to set and spring a trap on Defendants from which
4 there could be no escape. As it turned out, Defense counsel did not become aware of the
5 existence of the ALTERED medical records until May 25, 2006 at Plaintiff's deposition of
6 Inglehart. Until the deposition, Defense counsel had no hint that Plaintiff's counsel had obtained
7 the altered records from Inglehart a month earlier on April 25, 2006 but had intentionally not
8 disclosed them. What follows is a chronological list of events which occurred, in the form of a
9 sworn declaration.
10

11 1. At the inception of this action Inglehart's unaltered medical records were
12 produced in initial disclosures. Those records came from AMSEA's home office files.
13 Deposition testimony has shown that AMSEA obtained the medical records by way of its ship-
14 board personnel copying the records from Inglehart's original medical log book and forwarding
15 them to AMSEA headquarters in Massachusetts.
16

17 2. Plaintiff noticed the deposition of Carl Inglehart for April 25, 2006. Inglehart
18 asked for a one month continuance due to personal business off-island. Plaintiff's counsel
19 informed me of this and informed me that they would allow the continuance if Inglehart could
20 show that he in fact had pre-existing travel plans. As a result, I did not appear for the April
21 deposition nor did I have any contact whatsoever with Inglehart.
22

23 3. Plaintiff's counsel informed me that as a condition of allowing the continuance of
24 the deposition, they asked Inglehart to provide a copy his plane ticket to confirm the off-island
25 travel he said he had to undertake. Plaintiff's counsel subsequently informed me that Inglehart
26

27 ³ Although it has not yet come out in evidence put before the Court, it is undisputed that once Capt. Hagner
28 recognized that additional medical care was needed, such care was immediately ordered and the care was continued
at no cost to plaintiff until the treating doctors cleared Mr. Couture to work.

1 had provided a copy of his plane ticket, and that accordingly the deposition would be noticed to
2 take place on May 26, 2006. *It was subsequently learned that at the same time Inglehart had*
3 *provided a copy of his plane ticket to opposing counsel he had also provided them copies of*
4 *his altered medical records. Neither this fact nor the altered records were disclosed to defense*
5 *counsel.*

6
7 4. When I appeared for the deposition on May 25, 2006 I was shown a copy of the
8 plane ticket Inglehart had provided, *but was still not shown the altered medical records he had*
9 *provided together with the plane ticket.*

10 5. When Inglehart appeared for the deposition I requested a few minutes to meet
11 with him prior to beginning testimony because I had never before spoken to him about the case.
12 One of plaintiff's two lawyers agreed, but the other seemed oddly reluctant. I was given a few
13 minutes to meet with Inglehart privately. I was later told by one of plaintiff's lawyers that the
14 other was anxious to interrupt my pre-deposition meeting with Inglehart.

15
16 6. During my meeting with Inglehart he explained that he had "been here about a
17 month ago when he had come in to show his plane ticket" and that at that time he had also
18 dropped off copies of his medical records on Mr. Couture. My response was "fine, because I too
19 had copies of Mr. Couture's medical records from AMSEA's file", and had provided copies to
20 Plaintiffs lawyers as was routinely done in litigation.

21
22 7. Inglehart's deposition resulted in comparing the altered medical records Inglehart
23 brought to the deposition, and a month earlier had provided to Plaintiff's counsel, with the ones I
24 had produced in discovery. The records were different in that Inglehart's altered records
25 contained several entries referencing instructions to Mr. Couture to get x-rays. I informed
26 Inglehart that he must offer a plausible explanation for two sets of medical records which said
27 something different. He told me that when he had "heard rumors" that he was being blamed for
28

1 Plaintiff's condition for not advising Mr. Couture to get an x-ray, he "went back and inserted the
2 x-ray language to confirm the verbal advice he had given [Mr. Couture] at the time of treatment
3 about getting x-rays".

4 8. I was shocked to learn Plaintiff's counsel had in fact obtained the altered records
5 from Inglehart back in April when he provided a copy of his plane ticket, and yet had never
6 disclosed the existence of such records to me; *not even when I was told about the plane ticket or*
7 *later when I was shown a copy of the plane ticket.* Instead, opposing counsel had intentionally
8 kept secret the existence and their copies of the altered medical records notwithstanding that they
9 rather obviously intended to rely heavily on the altered records to support their contention and
10 claim that Inglehart (and thus AMSEA) had failed to meet the standard of care for medical
11 treatment by failing to diagnose a fracture and order an x-ray as part of treatment. It was also
12 apparent that they intended to use the altered records to discredit a witness they contended was
13 an agent of AMSEA at the time he rendered medical care to plaintiff.

14 9. It was obvious that Plaintiff's counsel had all along intentionally kept the *altered*
15 records secret as part of their plan to spring them on me by surprise during Inglehart's deposition,
16 while at the same time springing the *unaltered* records I had produced in discovery on Inglehart
17 during his deposition. Instead, the altered records should have in my view been treated like
18 discovery materials and produced by way of supplemental disclosures.

19 10. My ensuing investigation into this situation included obtaining the *original*
20 medical logbook off of the vessel to see whether or not the x-ray language was on the original,
21 which it was. I provided the original logbook to Plaintiff's counsel for inspection and copying at
22 the subsequent deposition of Inglehart which I took.

23 ///

24 ///

11. Pursuant to 28 USC Section 1746, I declare under penalty of perjury that the above numbered paragraphs 1 through 10 are true and correct to the best of my recollection of the events therein described.

Dated: March 19, 2007:



David Ledger

III. Discussion

Defendants seek the imposition of sanctions pursuant to Federal Rule of Civil Procedure 37. Rule 37 *compels* the imposition of sanctions for failure to disclose discoverable information.

Rule 37 states:

A party that without substantial justification fails to disclose information required by Rule 26(a) or 26(e)(1) or to amend a prior response to discovery as required by Rule 26(e)(2), is not, unless such failure is harmless, permitted to use as evidence at a trial, at a hearing, or on a motion any witness or information not so disclosed. In addition to or in lieu of this sanction, the court, on motion and after affording an opportunity to be heard, may impose other appropriate sanctions.

Fed. R. Civ. P. 37(c)(1). Other available sanctions include (1) designating facts as established, (2) refusing to allow the disobedient party to support or oppose designated claims or defenses; (3) prohibiting that party from introducing designated matters in evidence, or (4) treating as a contempt of court the failure to obey any orders. Fed. R. Civ. P. 37(b), (c). Sanctions imposed pursuant to Rule 37 must be both "just" and based on the full record before the Court. *Ins. Corp. of Ireland v. Compagnie des Bauxites*, 456 U.S. 694, 707 (1982).

Evidence which is withheld from another party is characterized as spoliated evidence. The right to impose sanctions for spoliation arises from a court's inherent power to control the judicial process and litigation, but the power is limited to the necessity to redress conduct which abuses the judicial process. *Silvestri v. Gen. Motors Corp.*, 271 F.3d 583, 590 (4th Cir. 2001). The policy of the Court's inherent power in this regard is to preserve the integrity of the judicial

1 process in order to retain confidence that the judicial process works to uncover the truth. *Id.* The
2 Court thus has broad discretion to sanction for spoliation, as long as the sanction serves the
3 prophylactic, punitive, and remedial rationales underlying the spoliation doctrine. *Id.* The
4 sanction also depends on (1) the degree of prejudice suffered by the opposing party; (2) whether
5 the prejudice can be cured; (3) the practical importance of the evidence; (4) whether the plaintiff
6 was in good faith or bad faith; and (5) the potential for abuse if the evidence is not excluded. *Id.*
7 *See also Paramount Pictures Corp. v. Davis*, 234 F.R.D. 102, 111 n.3 (E.D. Pa. 2005).

9 Sanctions are warranted here because of the sharp practice involved and the prejudice and
10 abuse this has inflicted and will continue to inflict on Defendants. Rather than disclosing the
11 altered medical records upon immediately becoming aware of them in April 2006, Plaintiff's
12 counsel kept the existence of the records secret with the specific intent to set and spring a trap on
13 Defendants from which there could be no escape.

15 Plaintiff intentionally withheld critically important documentary evidence from
16 Defendant so as to be able to "blind-side" defense counsel and the deponent during a deposition,
17 thereby spoliating the evidence and prejudicing Defendant. Instead of turning the altered
18 medical records over to Defendant when they came into possession of them on April 25, 2006,
19 and all the while knowing full well of their intentions to use the medical records prove their
20 claims, opposing counsel hid them until May 25, 2006. Furthermore, Plaintiff has since utilized
21 the Inglehart altered records to trap Defendant into a position that does not focus on the truth or
22 any relevant issue, but rather is admittedly aimed at inflaming the jury to enhance a jury verdict.
23 This is paradigm bad faith litigation and should not be permitted at trial of this action.⁴

25
26 ⁴ This situation is markedly different from the example the Court discussed during settlement conference. In that
27 instance the court noted that admitting to intoxication in a case where intoxication is the cause of the harm is not
28 grounds for excluding evidence of the level of intoxication during the trial. Defendant agrees with this example
because the level of intoxication continues to be relevant to the actual harm caused even if the intoxication itself is
admitted. This case is an entirely different situation. Here, Defendants acknowledge that the standard for medical

1 If this conduct is not redressed, Plaintiff will seek and perhaps be permitted to improperly
2 inflame the jury utilizing evidence under the auspices of bad faith on the part of the Defendants
3 while knowing full well that Defendants had nothing to do with the alteration of records, that it
4 was an ill-advised independent act of the medical services officer who was not employed by
5 Defendants, and also knowing full well that the altered records have absolutely no relevance to
6 any issue before the court; in particular, any harm to the Plaintiff. As Plaintiff's counsel clearly
7 explained at the settlement conference on March 14, 2007, their intent is to parade the altered
8 medical records in front of the jury for the sole purpose of enhancing a verdict on so-called "bad
9 facts." These "bad facts" are not of defendants' making and it would be grossly prejudicial for
10 the jury to punish Defendants for bad acts attributable to a third person over whom defendants
11 had absolutely no control. Moreover, the jury would punish defendants for "bad acts" which did
12 not cause or contribute to cause any harm to Plaintiff.
13

14
15 The appropriate sanction, therefore, is to prevent Plaintiff from utilizing, referring to, or
16 introducing as evidence the Inglehart altered medical records. This will not harm Plaintiff,
17 because Defendant has already informed the court that it is agreed that the one-month delay in
18 receiving full and proper medical care did have some impact on plaintiff, the only question being
19 what is the measure of that impact in terms of compensation.
20

21 Defendant also seeks the imposition of attorneys fees and costs for the willful and bad
22 faith withholding of evidence by Plaintiff. Fed. R. Civ. P. 37. This includes the fees and costs
23 for bringing and presenting this motion.

24 ///


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26 care was not met because an immediate x-ray was indicated yet not ordered by the medical provider. This is what
27 may have caused harm to the Plaintiff, not the existence of altered medical records which have no relevance to the
28 level of harm that may have flowed from the missed diagnosis and failure to order an x-ray. In this instance, the
altered medical records have absolutely no purpose other than to inflame the jury by making the jury think that
AMSEA was responsible for the "bad acts" of Inglehart when in fact AMSEA had no knowledge of the altered
records until May 2006 when they first came to light.

1 **IV. Conclusion**

2 Based on the above discussion and the applicable law, Inglehart's altered medical records
3 should be stricken entirely and no reference whatsoever to them during trial should be permitted.

4 DATED: March 19, 2007.

5 CARLSMITH BALL LLP

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7 
8 DAVID LEDGER
9 Attorneys for Defendant
10 American Overseas Marine Corporation
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EXHIBIT

“A”

Form 7040-00-80-4178



HEALTH RECORD

CHRONOLOGICAL RECO

DATE

SYMPTOMS DIAGNOSIS TREATMENT TREATING ORGANIZATION (Sign each entry)

3/25/04

MEDICAL DEPARTMENT
MARITIME PREPOSITIONING SHIPS
SQUADRON THREE UNIT 25101
FTO AF 96601-7108

0900

S: 394.0. w/m 2 1/2" Laceration to lateral side of 5th finger Rhand, mild pain. State handling iron pipes & causing injury. Can have laceration & ROM to finger.

O: w/d 11M 2 1/2" x 1/4" & other problems except lacerated 5th finger Rhand due to injury, & signs of fx on tendon injury to finger; copious bleeding, good blood supply.

A: Laceration 2 1/2" long to capsule of finger 5 fx on tendon injury.

P: debrided & Bet. Scrub and local 1% Lidocaine, 2cc: into laceration & (7) deep 3-0 nylon suture applied. Tetanus immunization current. Clean sterile dressing applied. Is elevate & placed on light duty.

3/26/04

MEDICAL DEPARTMENT
MARITIME PREPOSITIONING SHIPS
SQUADRON THREE UNIT 25101
FTO AF 96601-7108

1130hrs.

CARL INGELHART
MEDICAL SERVICE OFFICER

SWM returned for F/U & dressing change. Signs of infection, minimal draining on onset, suture intact. Pain. Changed dressing and is to keep as clean as possible. Will F/U level on 3/28/04

3/28/04

MEDICAL DEPARTMENT
MARITIME PREPOSITIONING SHIPS
SQUADRON THREE UNIT 25101
FTO AF 96601-7108

CARL INGELHART
MEDICAL SERVICE OFFICER

Returned for dressing change. Signs of infection, healing well. Keep clean. Dry. Will change dressing on 3/30/04

CARL INGELHART

MEDICAL SERVICE OFFICER

CVEN-7

PATIENT'S IDENTIFICATION (Use this space for Mechanical Imprints)

RECORDS MAINTAINED AT

PATIENT'S NAME (Last, First, Middle Initial)

Carter, Kenneth L.

SEX

M

RELATIONSHIP TO SPONSOR

STATUS

O-med

RANK/GRADE

SPONSOR'S NAME

ORGANIZATION

Amara Contract

DEPART./SERVICE

SEN/IDENTIFICATION NO

536-62-6199

DATE OF BIRTH

8/25/55

000078

CHRONOLOGICAL RECORD OF MEDICAL CARE

STANDARD FORM 600 (REV 3-84)
Prescribed by GSA and DHA

Exh. A

DATE	SYMPTOMS, DIAGNOSIS, TREATMENT, TREATING ORGANIZATION (Sign each entry)
3-30-04 1000 hrs.	MEDICAL DEPARTMENT MARITIME PREPOSITIONING SHIPS SQUADRON THREE UNIT 25101 FTO AP 96601-7108 SVM returned to sick bay for F/U eval of laceration to 5 th finger @ hand. Suture intact, will remove on or about 3 rd April 04. Has some residual hematoma from injury but has ROM to finger, clean, sterile dressing applied & Bacitracin Ointment. Will F/U on Thursday. <i>[Signature]</i> CARL INGELHART MEDICAL SERVICE OFFICER
4-1-04 1100hrs	MEDICAL DEPARTMENT MARITIME PREPOSITIONING SHIPS SQUADRON THREE UNIT 25101 FTO AP 96601-7108 SVM returned for F/U of 5 th finger @ hand laceration occurring 1 wk ago. Suture still in place, & signs of edema or infection. Did place clean, sterile dressing & Bacit. Oint. & splint. Advised that MDS will remove any other suture on Sat & the last on Sunday 3 rd & 4 th April to see if tolerated. F.F.F.U. <i>[Signature]</i> CARL INGELHART MEDICAL SERVICE OFFICER
4-3-04 1000 hrs.	MEDICAL DEPARTMENT MARITIME PREPOSITIONING SHIPS SQUADRON THREE UNIT 25101 FTO AP 96601-7108 SVM returned for suture removal of laceration to 5 th finger @ hand. Removed (F) suture 3-0 nylon. Laceration has healed. Will still place splint to area & sterile dressing for 3 days. F.F.F.U. <i>[Signature]</i> CARL INGELHART MEDICAL SERVICE OFFICER
4-8-04	MEDICAL DEPARTMENT MARITIME PREPOSITIONING SHIPS SQUADRON THREE UNIT 25101 FTO AP 96601-7108 SVM returned for F/U of laceration sustained 2 wks ago to 5 th finger @ hand. Laceration has healed but now feel slight twing pain to area possibly due to nerve impairment. If it radiates/continues, should see neurologist for F/U. As of now SVM is fit for full duty. <i>[Signature]</i> CARL INGELHART MEDICAL SERVICE OFFICER

000079

STANDARD FORM 600 (REV. 5-84)
CARL INGELHART
MEDICAL SERVICE OFFICER

EXHIBIT

“B”

NEN FILE REF# 4176

HEALTH RECORD		CHRONOLOGICAL RECC	
DATE	SYMPTOMS, DIAGNOSIS, TREATMENT, TREATING ORGANIZATION (Sign each entry)		
3/25/04 0900	<p>MEDICAL DEPARTMENT MARITIME PREPOSITIONING SHIPS SQUADRON THREE UNIT 25101 FPO AP 96601-7108</p> <p>S: 394.0 W/M \approx 2" laceration to @ lateral side of 5th finger @ hand, mild pain. States "Handling rim pipes & causing injury. Can have flexion & ROM to finger.</p> <p>O: W/O W/M \approx ϕ KOA, ϕ other problems except lacerated 5th finger @ hand due to injury, ϕ signs of fx or tendon injury to finger; Copious bleeding, good blood supply.</p> <p>A: Laceration 2 1/2" long to capsule of finger 5 ft or tendon injury.</p> <p>P: Scrubbed & Red. Scrub and local 1% Lidocaine, 2cc into laceration; (7) seven 3-0 nylon sutures applied. Tetanus immunization current. Clean sterile dressing applied. ^{Finger Joint} Is elevate & placed on light duty.</p>		
3/26/04 1130hrs	<p>MEDICAL DEPARTMENT MARITIME PREPOSITIONING SHIPS SQUADRON THREE UNIT 25101 FPO AP 96601-7108</p> <p>Sym returned for Flv & dressing change. ϕ signs of infection, minimal draining on onset, sutures intact. ϕ pain. Changed dressing and is to keep as clean as possible. Will Flv eval on 3/28/04</p>		
3/28/04	<p>MEDICAL DEPARTMENT MARITIME PREPOSITIONING SHIPS SQUADRON THREE UNIT 25101 FPO AP 96601-7108</p> <p>Return for dressing change. ϕ signs of infection, healing well. To keep clean & dry. Will change dressing on 3/30/04</p>		
PATIENT'S IDENTIFICATION (Use this space for Mechanical Int)		<p>RECORDS MAINTAINED AT: </p> <p>PATIENT'S NAME (Last, First, Middle initial): <u>Carter, Kenneth L.</u></p> <p>RELATIONSHIP TO SPONSOR: <u>-</u></p> <p>SPONSOR'S NAME: <u>-</u></p> <p>DEPT./SERVICE: <u>-</u></p>	
		<p>MEDICAL SERVICE OFFICER: <u>CARL INGELHART</u> <i>Ingelhart</i></p> <p>OVER \rightarrow</p> <p>STATUS: <u>Q-med</u></p> <p>ORGANIZATION: <u>Naval Carters</u></p> <p>SSN/IDENTIFICATION NO.: <u>536-62-6199</u></p> <p>SEX: <u>M</u></p> <p>RANK/GRADE: <u>-</u></p> <p>DATE OF BIRTH: <u>8/25/55</u></p>	

CHRONOLOGICAL RECORD OF MEDICAL CARE

STANDARD FORM 600 (REV 3-84)
Prescribed by GSA and ICMA
FPMR (41 CFR) 201-45.505

Exh. B

DATE	SYMPTOMS, DIAGNOSIS, TREATMENT, TREATING ORGANIZATION (Sign each entry)
3-30-04	MEDICAL DEPARTMENT MARITIME PREPOSITIONING SHIPS SQUADRON THREE UNIT 25101 FTO AP 96601-7108
1000 hrs.	5MM returned to sickbay for F/U eval of laceration to 5 th finger R hand. Sutures intact, will remove on or about 3 rd April 04. Has some residual hematoma from injury but has ROM to finger, clean, sterile dressing applied & Bacitracin Ointment. Will F/U on Thursday. Was advised to have finger X-rayed in SSB.
4-1-04	MEDICAL DEPARTMENT MARITIME PREPOSITIONING SHIPS SQUADRON THREE UNIT 25101 FTO AP 96601-7108
1100 hrs	5MM returned for F/U of 5 th finger R hand laceration occurring 1 wk ago. Sutures still in place, no signs of edema or infection. Did place clean, sterile dressing & Bacit. Oint. & splint. Advised that MSO will remove every other suture on Sat & the last on Sunday 3 rd & 4 th April to see if tolerated. F.F.F. asked if he had finger X-rayed?
4-3-04	MEDICAL DEPARTMENT MARITIME PREPOSITIONING SHIPS SQUADRON THREE UNIT 25101 FTO AP 96601-7108
1000 hrs.	5MM returned for suture removal of laceration to 5 th finger R hand. Removed (1) suture 3-0 nylon, laceration has healed. Will still place splint to area & sterile dressing for 3 days. F.F.F. Still has not had finger X-rayed or seen an Orthopedic doctor.
4-8-04	MEDICAL DEPARTMENT MARITIME PREPOSITIONING SHIPS SQUADRON THREE UNIT 25101 FTO AP 96601-7108
	5MM returned for F/U of laceration sustained 2 wks ago to 5 th finger R hand. Laceration has healed but now feels slight twing pain to area possibly due to nerve impingement. If it radically continues, should see neurologist for F/U. As of now 5MM is fit for full duty.

STANDARD FORM 600-1041
CARL INGELHART
MEDICAL SERVICE OFFICER

DECLARATION OF SERVICE


The undersigned hereby declares that on the 19th day of March 2007, I will cause to be served, via electronic filing/service, a true and correct copy of **DEFENDANTS' EX PARTE MOTION UNDER LOCAL RULE 7.1.H.3(B) TO SHORTEN TIME TO HEAR AMENDED MOTION FOR SANCTIONS; CERTIFICATION PURSUANT TO LOCAL RULE 7.1.H.3(B); MOTION FOR SANCTIONS; MEMORANDUM OF POINTS AND AUTHORITIES; EXHIBITS A & B; DECLARATION OF SERVICE** upon the following Counsels of record:

William M. Fitzgerald, Esq.
Law Office of William M. Fitzgerald
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and

Bruce Berline, Esq.
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